

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

BRENDA LYNN GEIGER, *et al.*,)
)
 Plaintiffs,)
)
 v.)
)
 ABARCA FAMILY INC.,)
 d/b/a LA RUMBA RESTAURANT)
 & NIGHTCLUB, *et al.*,)
)
 Defendants.)

Civil Action No. 3:21cv771(RCY)

ORDER

(Adopting Report and Recommendation of the Magistrate Judge)

Plaintiffs Brenda Lynn Geiger, Emily Scott, Jennifer Zharinova, Jessica “Jessa” Hinton, Lina Posada, Lucy Pinder, Paola Canas, Sandra Valencia, Tiffany Toth, and Jessica Rockwell (collectively, “Plaintiffs”) brought this action against Defendants Abarca Family, Inc., d/b/a La Rumba Restaurant & Nightclub (the “Club”) and Does 1 through 5 (the “Doe Defendants”) (collectively, “Defendants”) to recover for Defendant’s alleged misappropriation and use of Plaintiffs’ images, without their use, in advertising and promoting the Club.

Pursuant to 28 U.S.C. § 636(b)(1)(B), and by Order of Reference (ECF No. 24), this matter was referred to United States Magistrate Judge Elizabeth W. Hanes for a Report and Recommendation (“R & R”). In the R & R (ECF No. 25), filed on July 29, 2022, Magistrate Judge Hanes recommended that the Court GRANT in part and DENY in part the Defendant-Club’s Motion to Dismiss (ECF No. 18).¹

By copy of the R & R, each party was advised of the right to file written objections to the

¹ Magistrate Judge Elizabeth W. Hanes was elevated to the position of United States District Judge on August 5, 2022.

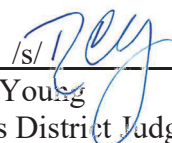
findings and recommendations made by the Magistrate Judge within fourteen days from the date the R & R was forwarded to the objecting party by Notice of Electronic Filing or mail, computed pursuant to Rule 6(a) of the Federal Rules of Civil Procedure. Rule 6(d) permits an extra three (3) days if service occurs by mail. The parties were further advised that failure to file timely objections to the findings and recommendations would result in a waiver of any right to a *de novo* review of the determinations contained in the R & R. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). The time for filing written objections has passed, and neither party has filed objections. “[I]n the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Id.* (citation omitted).

The Court has reviewed the R & R and finds no clear error on the face of the record. Accordingly, the Court hereby ADOPTS and APPROVES in full the findings and recommendations set forth in the R & R. It is hereby ORDERED that the Plaintiff’s Motion for Dismiss (ECF No. 18) is GRANTED as to Plaintiff’s second cause of action for Statutory Business Conspiracy, GRANTED as to Plaintiffs’ first cause of action based on images published on or before August 8, 2016, and DENIED as to the third and fourth causes of action and all claims in the first cause of action based on images published after August 8, 2016.

The Clerk is directed to provide a copy of this Order to all counsel of record.

It is so ORDERED.

Richmond, Virginia
Date: September 14, 2022



Roderick C. Young
United States District Judge